THE TOWNSHIP OF JOLY

BY-LAW 2020 – 015

Being A By-law to regulate the use of Off-Road Vehicles within the Township of Joly

WHEREAS Section 191.8 (3) of the Highway Traffic Act, R.S.O. 1990, c. H8, authorizes a municipality to pass by-laws permitting the operation of off-road vehicles on any highway within the municipality that is under the jurisdiction of the municipality, or on any part or parts of such highway;

AND WHEREAS the Highway Traffic Act, R.S.O. 1990, c. H8, Ontario Regulation 316/03, Operation of Off-Road Vehicles on Highways, defines an “all-terrain vehicle”, and “extreme terrain vehicle”, a “multi-purpose off-highway utility vehicle”, an “off-road motorcycle” and a “recreational off-highway vehicle” and provides the regulation governing the operation of these off-road vehicles upon highways within municipalities;

AND WHEREAS the Highway Traffic Act, R.S.O. 1990, c. H8, Ontario Regulation 316/03, Operation of Off-Road Vehicles on Highways, regulates the equipment and operational requirements of off-road vehicles;

AND WHEREAS Section 35 of the Municipal Act, 2001, as amended, allows a municipality to restrict the common law right of passage by the public on a highway within its jurisdiction;

AND WHEREAS the Township of Joly deems it necessary to develop detailed off-road vehicle safety regulations that allow off-road vehicles to have increased access to specific highways within the Township of Joly under safe circumstances;

NOW THEREFORE be it resolved that the Council of the Township of Joly enacts as follows:

1. Short Title

This By-law may be referred to as “Off-Road Vehicle By-law”.

2. Definitions

“**Act**” means the Highway Traffic Act, R.S.O. 1990, c. H8, Ontario Regulation 316/03, Operation of Off-Road Vehicles on Highways.

“**All-terrain vehicle**” means an off-road vehicle that,
(a) Has four wheels, the tires of which are all in contact with the ground,
(b) Has steering handlebars,
(c) Has a seat that is designed to be straddled by the driver, and
(d) Is designed to carry,
  (i) A driver only and no passengers, or
  (ii) A driver and only one passenger, if the vehicle,
    (A) Has one passenger seat that is designed to be straddled while sitting facing forward behind the driver, and
    (B) Is equipped with foot rests for the passenger that are separate from the foot rests for the driver.

“**ATVs**” mean all-terrain vehicles.

“**Extreme terrain vehicle**” means an off-road vehicle that,
(a) Has six or eight wheels, the tires of which are all in contact with the ground,
(b) Has no tracks that are in contact with the ground,
(c) Has seats that are not designed to be straddles, and
(d) Has a minimum cargo capacity of 159 kilograms.

"**Highway**" What constitutes a highway?
The following are highways unless they have been closed:
(a) All highways that existed on December 31st, 2019.
(b) All highways transferred to a municipality under the Public Transportation and Highways Improvement Act.
(c) All road allowances made by the Crown Surveyors that are located in municipalities.
(d) All road allowances, highways, streets and lanes shown a registered plan of subdivision, and includes,
    (i) A common and public highway, street, avenue, parkway, driveway, square, place, bridge, viaduct, trestle, any part of which is intended for or used by the general public for the passage of vehicles and includes the area between the lateral property lines thereof.

"**Multi-purpose off-highway utility vehicle**" means an off-road vehicle that,
(a) Has four or more wheels, the tires of which are all in contact with the ground,
(b) Has a steering wheel for steering control,
(c) Has seats that are not designed to be straddled, and
(d) Has a minimum cargo capacity of 159 kilograms.

"**Off-road motorcycle**" means an off-road vehicle, designed primarily for recreational use, that,
(a) Has steering handlebars,
(b) Has two wheels, the tires of which are in contact with the ground,
(c) Has a minimum wheel rim diameter of 250 millimetres,
(d) Has a minimum wheelbase of 1,016 millimetres,
(e) Has a seat that is designed to be straddles by the driver,
(f) Is designed to carry a driver only and no passengers, and
(g) Does not have a sidecar.

"**Off-road vehicle**" has the same meaning as in the Off-Road Vehicles Act,

"**Peace officer**" for the purposes of this by-law includes:
(a) A police constable appointed under the Ontario Police Act,
(b) A conservation officer under the Fish and Wildlife Conservation Act,
(c) A park warden appointed under the Provincial Parks Act, and
(d) A by-law enforcement officer appointed by the municipality.

"**Recreational off-highway vehicle**" means an off-road vehicle that,
(a) Has four or more wheels, the tires of which are all in contact with the ground,
(b) Has a steering wheel for steering control,
(c) Has seats that are not designed to be straddled, and
(d) Has an engine displacement equal to or less than 1,000 cubic centimetres.

3 Off-Road Vehicles Permitted

3.1 Only those "off-road vehicles" falling within the definition of "all-terrain vehicle (ATV)", "extreme terrain vehicle", "multi-purpose off-highway utility vehicle", "off-road motorcycle" and "recreational off-highway vehicle" in this by-law, may be driven on highways under the jurisdiction of the Township of Joly provided that:
    (i) the all-terrain vehicle meets the equipment requirements set out in the Highway Traffic Act, R.S.O. 1990, c. H8, Ontario Regulation 316/03, Operation of Off-Road Vehicles on Highways; and
    (ii) the all-terrain vehicle is driven in accordance with the operational requirements set out in the Highway Traffic Act, R.S.O. 1990, c. H8, Ontario Regulation 316/03, Operation of Off-Road Vehicles on Highways.

4. Prohibitions for off-road vehicles

4.1 The authority to drive an off-road vehicle on highways under the jurisdiction of the Township of Joly does not include:

(i) any sidewalk, footpath or other area meant solely for pedestrian traffic;
(ii) any lands within a municipal park or on a municipal beach;
(iii) private roads or driveways without the consent of the owner thereof;
(iv) any highway falling under the jurisdiction of the Province of Ontario or any other government authority;
(v) any highway under the jurisdiction of the Township of Joly where the common law right of passage has been removed or restricted under a by-law passed pursuant to Section 35 of the Municipal Act, 2001;
(vi) unopened road allowances.

5. Exemptions

5.1 The exemptions governing crossing a highway, farmers and trappers and public work functions as set out in Section 25, 26, 27 and 28, of the Highway Traffic Act, R.S.O. 1990, c. H8, Ontario Regulation 316/03, Operation of Off-Road Vehicles on Highways Act shall apply to this by-law.

6. Parking

6.1 Off-road vehicles shall be subject to all regulations and by-laws governing the parking of vehicles within the Township of Joly.

7. Enforcement

7.1 A peace office may stop any person driving an off-road vehicle.

7.2 Every person who has been signaled to stop by a person authorized to do so under subsections 7.1 shall stop forthwith.

7.3 Every person stopped under this Section or subsection 7.1, shall when so requested, identify himself or herself by giving his or her name to the person who stopped him or her.

8. Duty to stop for red flashing light

8.1 Every driver of an off-road vehicle shall stop his or her vehicle when approached by another vehicle with a flashing red light.

8.2 No person except a peace officer shall operate an off-road vehicle that is equipped with a red lamp that produces flashes of red light.

8.3 Subsection 8.2 does not apply to prohibit the use of vehicle hazard warning lights commonly known as four-way flashers.

9. Severability

9.1 If a court of competent jurisdiction should declare any section or part of any section of this by-law to be invalid, such section or part of a section shall not be construed as having persuaded or influenced council to pass the remainder of the by-law and it is hereby declared the remainder of the by-law shall be valid and remain in force.

10. Penalty

10.1 Any person who contravenes any of the provisions of this by-law is guilty of an offence and upon conviction is liable to a fine as provided for in the Provincial Offences Act.

10.2 All such penalties shall be recovered under the Provincial Offences Act.

11. Repeal

11.1 This By-law repeals By-law # 2004-07.

12. Effective Date

12.1 This By-law shall come into full force and effect on the date it is passed by the Council of the Township of Joly.

Read in its entirety, approved, signed and the seal of the Corporation affixed thereto and finally passed in open Council this 10th day of November, 2020.

ORIGINAL SIGNED BY TIM BRYSON
Mayor

ORIGINAL SIGNED BY LEANNE CROZIER
Clerk